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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/019,095	12/20/2001	Atsushi Yamada	P 0249550	3094

7590

04/24/2003

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EXAMINER

UPTON, CHRISTOPHER

ART UNIT

PAPER NUMBER

1724

DATE MAILED: 04/24/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

019095

Applicant(s)

Yamada et al

Examiner

Upton

Group Art Unit

1724

—The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address—

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- ☐ Responsive to communication(s) filed on \_\_\_\_\_
- ☐ This action is **FINAL**.
- ☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

## Disposition of Claims

- ☒ Claim(s) 1-13 is/are pending in the application.
- ☐ Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- ☒ Claim(s) 1-13 is/are rejected.
- ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- ☐ Claim(s) \_\_\_\_\_ are subject to restriction or election requirement

## Application Papers

- ☐ The proposed drawing correction, filed on \_\_\_\_\_ is ☐ approved ☐ disapproved.
- ☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119 (a)-(d)

- ☒ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119 (a)-(d).
- ☒ All ☐ Some\* ☐ None of the:
  - ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_
- ☒ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a))

\*Certified copies not received: \_\_\_\_\_

## Attachment(s)

- ☒ Information Disclosure Statement(s), PTO-1449, Paper No(s) 2 ☐ Interview Summary, PTO-413
- ☒ Notice of Reference(s) Cited, PTO-892 ☐ Notice of Informal Patent Application, PTO-152
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948 ☐ Other \_\_\_\_\_

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1. Claim 13 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 13, it is unclear as to what the "cleaning device" is removing. Also, it appears from the specification that sludge, not waste water, from the cleaning device is returned.

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-6 and 8-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Japanese patents 2000-24632, 2000-33363 or 2-2639, each in view of Japanese patents 11-179384 or 11-19674, or Suzuki et al.

Japanese patents 2000-24632, 2000-33363 and 2-2639 each disclose kitchen waste treatment systems having grinders, tanks, solid/liquid separators, composters for the solids, and biological treatment devices for the liquids, substantially as claimed. The instant claims differ in recitation of a split flow device for the biological treatment device, which comprises plural baskets having stacked layers of multiple sizes of grains, comprising wood chips.

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It is well known to use a multi-layer treatment biofilter with a split flow inlet and baskets of particles, including wood chips, to treat waste liquid from a kitchen disposer, as exemplified by Japanese patents 11-179384 and 11-19674, and Suzuki (which appears to be the U.S. equivalent to the 11-19674 patent). It would therefore have been obvious for one of ordinary skill in the art to use such a treatment device in the systems of Japanese patents 2000-24632, 2000-33363 and 2-2639, to improve the treatment of the liquid.

4. Claims 1-8 and 10-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Japanese patents 2000-24632, 2000-33363 or 2-2639, each in view of Japanese patent 11-57761.

Japanese patents 2000-24632, 2000-33363 and 2-2639 each disclose kitchen waste treatment systems having grinders, tanks, solid/liquid separators, composters for the solids, and biological treatment devices for the liquids, substantially as claimed. The instant claims differ in recitation of a split flow device for the biological treatment device, which comprises plural baskets having stacked or concentric layers of multiple sizes of grains.

It is known to treat organic matter i liquid by biofilters having plural containers, both stacked and concentric (see figure 3), of varying sizes of particles, as disclosed by Japanese patent 11-57761. It would therefore have been obvious for one of ordinary skill in the art to substitute such a biofilter for the biological treatment

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systems in Japanese patents 2000-24632, 2000-33363 and 2-2639, to improve treatment. With respect to the sizing of the mesh baskets and particles, and the composition of the mesh baskets, it is submitted that these would have been obvious matters of process optimization for one skilled in the art, absent a declaration of unexpected results, and therefore fails to patentably distinguish over the prior art.

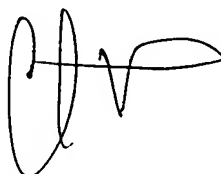
5. Claim 13 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112 set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

The recitation of a kitchen waste treatment system having the components recited in claim 1, and wherein the split flow device includes a cleaning device for removing sludge from the liquid and returning it to the flow rate controlling tank or to the separation tank, as described in the specification, patentably distinguishes over the prior art of record.

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Other references of interest include Wilhelmson, Burton, Spears, Jowett, Lunt, Ueda, Johnson and Pugh-Gottlieb.

7. Any inquiry concerning this communication should be directed to Christopher Upton at telephone number (703) 308-3741.

A handwritten signature in black ink, appearing to read 'Christopher Upton', with a stylized, flowing script.

CHRISTOPHER UPTON  
PRIMARY EXAMINER